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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,650	01/23/2004	Vernon McDermott	2173-4008	9391
27123	7590	03/08/2006	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			TRUONG, BAO Q	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/763,650

Applicant(s)

MCDERMOTT, VERNON

Examiner

Bao Q. Truong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 5, 8-13, 15 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 14 and 17-21 is/are rejected.
- 7) ☒ Claim(s) 6 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/16/2004.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of species I of Figure 1 including claims 1-4, 6-8, 14, 16, 17, 19, 20 and 21 in the reply filed on 2/22/2006 is acknowledged. The traversal is on the ground(s) that all species of restricted claims are properly presented in the same application; undue diverse searching would not be required; and all claims should be examined together. This is not found persuasive because each species, each different embodiments, is independently and patentably distinct; and therefore there must be serious burden on the examiner.

Moreover, claim 8 recites "a screw mechanism arranged between the support element and the reflector", and claim 16 recites "an elongated shape with substantially parabolic cross-section, the cross-section of the reflector varying along a length of the reflector", which have not shown in the figure 1. Therefore, claims 8 and 16 are withdrawn from consideration.

In view of above, claims 1-4, 6, 7, 14, 17, 19, 20 and 21 are consideration.

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

2. Claims 1, 17, 19 and 20 are objected to because of the following informalities:

Claim 1, "at least one light-emitting diode" in line 5 should be change to --the/said at least one light emitting diode--.

Claim 17, "1" in line 2 should be change to --one--.

Claim 19, "a light-emitting diode" in line 3 should be change to --the/said light emitting diode--.

Claim 20, "a light-emitting diode" in line 5 should be change to --the/said light emitting diode--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 14 and 17-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Klose [US 6,648,490].

Regarding claims 1 and 17-21 Klose discloses a lighting device having a housing [10], a reflector [11] mounted within the housing [10], a LED [L] mounted in front of the front side of the reflector [11], a supporting element [26, 16, R] for support the LED, a protective lens [25] attached to the housing [10], and a focusing portion [28] enabled to

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adjust a relative position of the LED and the reflector [11] (figures 1-4, abstract, column 4 lines 44-65, column 5 lines 1-50, column 6 lines 8-25).

Regarding claim 14, Klose discloses a parabolic reflector [11] (column 2 line 45).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klose [US 6,648,490].

Regarding claims 2-4, Klose discloses a supporting element [16; 26, R] (figures 1-4), but does not disclose the supporting element being manufactured from the transparent, resilient, or metal material.

Since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use transparent, resilient, or metal materials for manufacturing the support element as taught by Klose for purpose of providing an advantageous way of emitting directly light outside a lighting device or making the supporting element harder to break.

Allowable Subject Matter

7. Claims 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 6, the focusing portion comprises a linear actuator mounted in the protective filter or lens and substantially normal to surface thereof as claimed.

Claim 7 is dependent on claim 6.

The limitations discussed above are neither disclosed nor suggested by the prior art of record.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chen [US 6,733,156] discloses a LED in front of a reflector.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bao Q. Truong whose telephone number is (571) 272-2383. The examiner can normally be reached on Monday-Friday (8:00 AM - 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea can be reached on (571) 272-2378. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bao Q. Truong
Examiner
Art Unit 2875


ALI ALAVI
PRIMARY EXAMINER